IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORIGINAL SIDE

APPEAL NO.517 OF 2004
IN
WRIT PETITION NO. 951 OF 2004

Shri Govind N. Khuman — Appellant
vs.
Famour Cine Laboratories — Respondent

Mr. R. D. Bhatt for the appellant.

Mr. Piyush Shah for the respondent.

CORAM : R. M. LODHA &
J.P. DEVADHAR,JJ

DATED : 19th August 2004

P.C.

The appellant-delinquent was charged of theft of employer's property (electric motor) and thereby committing misconduct of subversive of discipline or good behaviour on the premises of the establishment. In the inquiry the evidence produced by the employer showed that the electric motor was recovered by the police from delinquent's residence on 4th August 1990. In the inquiry, thus, charge of theft was proved. In the reference before the Labour Court, it was argued on behalf of the delinquent that the finding of the Inquiry Officer that the delinquent committed theft was perverse. The Labour Court negatived the said contention by observing thus:

> "To prove the charges, the management has examined its two witnesses. Evidence of Management witness no.1 R.B. Sharma shows that he had enquired with the police authorities and police informed that electric motor was recovered from workman Govind Nathu. Exh. 7 in enquiry proceeding is a xerox copy of First Information Report before the police. It shows that the management witness No.1 R.B. Sharma lodged a complaint in the Tardeo police Station on 1st August 1990 at about 2.30 p.m. In the F.I.R. names of suspected persons were not given. His evidence shows that the police visited the premises of the First Party and for enquiry the workman was taken to the police Station. Exh. 8 collectively is a letter addressed by the First Party to the Assistant Commissioner of Police at Tardeo Police Station dated 5th October 1990 and reply to the same by the police authorities is dated 16th October 1990. By said letter dated 5th October 1990 the First Party company requested the police authority to inform the progress of the complaint. Then the police informed that police had recovered electric motor from residential house of the Second Party workman on 4th August 1990."

2. The Labour Court, thus, rejected the reference. Aggrieved thereby the delinquent preferred the writ petition. The same came to be dismissed in limine. The delinquent has now come up in appeal.

3. The learned counsel for the delinquent submitted that the letter dated 4th August 1990 has been taken into consideration by the Inquiry Officer without affording any opportunity to the delinquent to cross-examine the author of the letter. In support thereof, the learned counsel for the delinquent relied

upon the judgment of the Supreme Court in the case of Union of India v. Varma (T.R.), 1958 (2) LLJ 259 and the Division Bench judgment of this Court in the case of Gope Laxmichand Badlani v. Oriental Bank of Commerce & ors., 2002 (3) L.L.N. 206.

4. There is no merit in the contention of the learned counsel for the delinquent that any principle of natural justice was violated in taking into consideration the letter dated 4th August 1990. As a matter of fact, the delinquent did contest the correctness of the letter dated 4th August 1990 and set up the case that the said letter has been managed by the employer by bribing the police. The Inquiry Officer considered the evidence of the delinquent and the management and then ultimately found that the charge of theft was proved. We do not find any breach of principles of natural justice.

5. Appeal has no merit and is dismissed in limine.

(R.M. LODHA, J.)

(J.P. DEVADHAR,J.)